

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

OBENTO LIMITED, *d/b/a/ Chinese
Menu Online*; and P & F INC., *d/b/a
Happiness Restaurant*,

Plaintiffs,

v.

QMENU INC.,

Defendant.

CIVIL ACTION FILE

No. 1:21-CV-03949-SCJ

ORDER

This matter appears before the Court on Plaintiffs' Consent Motion to File Amended Complaint and to Extend Deadlines. Doc. No. [94].¹ On September 24, 2021, this action was transferred from the United States District Court for the Northern District of Illinois. Doc. No. [67]. Upon transfer of this case, the Court terminated the pendency of Defendant's then-pending Motion to Dismiss (Doc.

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

No. [17]) and ordered Defendant to re-file its Motion to Dismiss (Doc. No. [71]). Defendant re-filed its Motion to Dismiss on October 12, 2021. Doc. No. [77]. Plaintiffs' Consent Motion to Amend reflects that the Parties have agreed upon requesting leave for the following: (1) for Plaintiffs to file an Amended Complaint; (2) for Defendant to have twenty-one (21) days to respond to Plaintiffs' Amended Complaint; and (3) for the deadline to file the Joint Preliminary Report and Discovery Plan to be extended to twenty-one (21) days from the filing of the Amended Complaint. Id. at 1-3.

After due consideration, the Court finds that the Consent Motion is due to be granted. Because Plaintiffs will be filing an Amended Complaint, the Court also finds that Defendant's pending Motion to Dismiss (Doc. No. [77]) is due to be denied as moot. See Lowery v. Ala. Power Co., 483 F.3d 1184, 1219-20 (11th Cir. 2007) ("Under . . . federal law, an amended complaint supersedes the initial complaint and becomes the operative pleading in the case."); see also Taylor v. Ala., 275 F. App'x 836, 838 (11th Cir. 2008) ("Subsequently, [p]laintiffs amended their complaint and [d]efendants' motion to dismiss became moot.").

Accordingly, the Court **GRANTS** Plaintiffs' Consent Motion to File Amended Complaint and to Extend Deadlines (Doc. No. [94]) and **DENIES** as

moot Defendant's pending Motion to Dismiss (Doc. No. [77]). The Court further **RULES** as follows: The Court **GRANTS** Plaintiffs' request for leave to file an Amended Complaint. Plaintiffs must file their Amended Complaint within **seven (7) days** of the date of this Order. Defendant shall have **twenty-one (21) days** from the filing of the Amended Complaint to respond thereto. Finally, the Court **ORDERS** the Parties to file their Joint Preliminary Report and Discovery Plan within **twenty-one (21) days** of the filing of the Amended Complaint.

IT IS SO ORDERED this 30th day of November, 2021.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE